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HOUSE BILL 3178 By
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SENATE BILL 3143
By Herron

AN ACT to amend Tennessee Code Annotated, Title 45 and Title 47, relative to certain lending practices.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 47, Chapter 23, Part 1, is amended by adding the following language as new, appropriately designated sections:

47-23-105. Reissuance credit on a title insurance policy issued on a previous mortgage loan when an existing mortgage loan is refinanced by the same lender within a five year period of the previous mortgage loan shall be given on each mortgage refinanced by a lender within this state.

47-23-106. No mortgage or home equity closings shall be conducted at the home of the borrower or at any residence unless it is impossible or unreasonably difficult for the borrower to travel to another location for the closing because of a physical infirmity or any other condition and such fact is fully disclosed in writing, signed by the borrower and filed with the closing attorney prior to the closing date.

47-23-107. (a) The commissioner of financial institutions shall adopt rules necessary to implement and enforce the provisions of this act. Upon finding probable

cause to believe that a lender or any other person, firm, or corporation is in violation of this act, the commissioner shall, after affording reasonable notice and opportunity to be heard to the lender, order the lender to cease and desist from the violation.

(b) If a lender fails to comply with or appeal the commissioner's cease and desist order, the lender is subject to a civil penalty of one thousand dollars (\$1,000) for each violation that is the subject of the cease and desist order. The penalty imposed under this section is in addition to and not in lieu of penalties available under any other provision of law applicable to a mortgage lender for failure to comply with applicable law.

(c) Upon a finding that a lender has violated this act, the commissioner may revoke, temporarily or permanently, the authority of the lender to make mortgage loans.

(d) A person damaged by a lender's actions may file an action in civil court to recover actual and punitive damages. Attorneys' fees shall be awarded to a prevailing borrower. Nothing in this act shall limit any statutory or common law right of a person to bring an action in court for any act, nor shall this act limit the right of the state to punish a person for the violation of any law.

SECTION 3. Tennessee Code Annotated, Title 45, Chapter 13, Part 1, is amended by adding the following language as a new, appropriately designated section:

45-13-120. If a third party originates a mortgagee loan or a broker is involved in such transaction, any and all remuneration retained or paid to the third party originator or broker of such loan from any source whatever and however calculated must be fully disclosed to the borrower in writing on the settlement statement. The third party originator or broker of such loan must sign an affidavit to be filed and remain with the closing attorney and the lender prior to the closing date of such loan stating any and all such remuneration received and retained.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

